Modified PTO/SB/33 (10-05)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number: Q95632

Mail Stop AF
Commissioner for Patents
P.O. Box 1450 Alexandria, VA 22313-1450

Application Number	Filed
10/585,815	July 12, 2006
First Named Inventor	
Kuk-hyun HAN	
Art Unit	**Examiner**
2621	Robert J. HANCE

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

☑ I am an attorney or agent of record.
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Signature

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July 17, 2009
Date

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Kuk-hyun HAN, et al.

Appln. No.: 10/585,815

Confirmation No.: 6267

Filed: July 12, 2006

Docket No: Q95632

Group Art Unit: 2621

Examiner: Robert J. HANCE

For: APPARATUS AND METHOD FOR DYNAMICALLY MANAGING USER'S FAVORITE CHANNELS

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated ***March 17, 2009***, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

I. Rejection of Claims 1, 2, 4, 5, 7-10, 12, 13, 15 and 16

Claims 1, 2, 4, 5, 7-10, 12, 13, 15 and 16 currently stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Soundararajan (U.S. Patent Pub. No. 2003/0084448) in view of Applicant's Admitted Prior Art (AAPA), and further in view of Yuen (U.S. Patent No. 5,488,409).

Claim 1 recites "if the calculated degree for the selected channel does not satisfy the predetermined reference and a predetermined pattern of channel change inputs is received by the user input unit". Applicant respectfully submits that one skilled in the art would not have been motivated to combine Soundararajan, AAPA, and Yuen to produce at least this feature.

Soundararajan describes that users may manually switch between various control lists and that a second control list may include additional channels that the first control list did not include. (paragraph 40). Based on this, it is not unreasonable to characterize Soundararajan as using a function to switch control lists, and thus include channels that did not meet the threshold calculated weight value of the first control list. However, Yuen only describes initiating functions by entering sequences of conventional keys (col. 6, lines 46-50), and thus, would not provide requisite motivation to modify Soundararajan and AAPA as the Examiner suggests.

In Yuen, the conventional keys referred to are on an alphanumeric keyboard 32a. That is, the conventional keys are letters or numbers and are not disclosed as linked to any particular function. Instead, Yuen separates the functional keys, such as SEARCH 32b, MODIFY 32c, and ENTER 32d from the alphanumeric keyboard 32a, and does not disclose that a sequence of these functional keys can be used to initiate a function. In Soundararajan, the channel up and channel down buttons on remote control 125 provide the function of proceeding to the next channel.

Accordingly, since Yuen does not teach or suggest using a sequence of functional keys to initiate a function, one skilled in the art would not have been motivated to modify Soundararajan to initiate a function from the sequence of channel up or channel down commands. Rather, one would only have been motivated (at most) to modify Soundararajan to initiate a function from entering a sequence of keys using alphanumeric keys. Thus, the combination fails to teach or suggest at least "provid[ing] the content of the selected channel through the output unit if the calculated degree for the selected channel does not satisfy the predetermined reference and a predetermined pattern of channel change inputs is received by the user input unit", as recited in claim 1.

In the Advisory Action of June 30, 2009, the Examiner asserts that the purpose of the disclosure of Yuen is to avoid cluttering the input of a device by allowing functions to be entered using a sequence of existing keys and that whether the keys are alphanumeric is insignificant. The Examiner has not cited anything that supports these assertions. Rather, the difference is significant, as entering a sequence of function keys would initiate a sequence of functions, while entering a sequence of alphanumeric keys would only initiate the desired function. As discussed above, Yuen only teaches, at most, initiating functions through a sequence of alphanumeric keys, which is consistent with the Examiner's alleged purpose of Yuen. Yuen does not teach or suggest initiating a function through a sequence of any keys other than a sequence of alphanumeric keys.

For at least the reasons discussed above, Applicant submits that claim 1 is patentable over the Examiner's proposed combination of Soundararajan, AAPA, and Yuen. Claim 9 is a method claim consistent with the apparatus of claim 1. Applicant submits that claim 9 is allowable for reasons analogous to those discussed with respect to claim 1.

Applicant submits that claims 4, 7, 12 and 15 are allowable at least by virtue of their dependencies and for this additional reason.

With respect to claims 4, 7, 12 and 15, the Examiner asserts that it would have been obvious to modify the combined system of Soundararajan and AAPA to include any sequence or pattern of key entries to activate any function or any program, since the Applicant has not disclosed that the specific pattern of key sequences solves any stated problem or is of any particular purpose. Applicant respectfully disagrees.

Regarding claims 4 and 12, the choice of the patterns "channel up - channel down - channel up" or "channel down - channel up - channel down" is not arbitrary. As described on pages 7-8 of the specification, the pattern channel up-channel down-channel up allows the apparatus to determine that the user wants to watch a channel that does not satisfy the predetermined reference for the preference degree and is between channel 13 and channel 38. The switching between the channels is an indication that the user wants to watch a channel between the two. As such, the particular claimed patterns are not arbitrary.

Similarly, in claims 7 and 15, the consecutive entry of the same input indicates that a user does not have a particular channel he wants to watch and is used as information of whether the user wants to watch channels other than those satisfying the reference. (page 7). The input is related to the user's viewing behavior and is used as information about what the user wants to watch rather than being an arbitrary sequence of keys. As such, this particular pattern of channel change inputs is not arbitrary.

The features of claims 4, 7, 12, and 15 are not arbitrary or merely obvious matters of design choice as the Examiner asserts, but rather facilitate the dynamic management of channels and the efficient search for a desired channel.

None of the cited references teach or suggest the features of claims 4, 7, 12 and 15. Nor would one of ordinary skill in the art have been motivated to modify the cited references to produce these features. Therefore, Applicant submits that claims 4, 7, 12 and 15 are allowable.

Applicant submits that claims 2, 5, 8-10, 13 and 16 are allowable at least by virtue of their dependencies.

II. Rejection of Claims 3 and 11

Claims 3 and 11 currently stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Soundararajan in view of Applicant's Admitted Prior Art (AAPA), and further in view of Yuen, and further in view of Wugofski (U.S. Patent Pub. No. 2003/0056216).

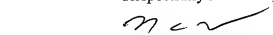
Applicant submits that Wugolfski fails to cure the deficiencies of the combination of Soundararajan, AAPA, and Yuen discussed above with respect to claims 1 and 9. Therefore, Applicant submits that claims 3 and 11 are allowable at least by virtue of their dependencies.

III. Rejection of Claims 6 and 14

Claims 6 and 14 currently stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Soundararajan in view of Applicant's Admitted Prior Art (AAPA), and further in view of Yuen, and further in view of Taylor (U.S. Patent Pub. No. 2005/0278648).

Applicant submits that Taylor fails to cure the deficiencies of the combination of Soundararajan, AAPA, and Yuen discussed above with respect to claims 1 and 9. Therefore, Applicant submits that claims 6 and 14 are allowable at least by virtue of their dependencies.

Respectfully submitted,



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